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11 *Attorney for Numerous Wild Fire Claimants*

12
13 UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 In re:
16 PG&E CORPORATION
17 - and -
18 PACIFIC GAS AND ELECTRIC
19 COMPANY,
20 Debtors.

Bankruptcy Case
No. 19-30088 (DM)

Chapter 11
(Lead Case)
(Jointly Administered)

**MOTION TO ALLOW/DEEM TIMELY
LATE FILING OF PROOF OF CLAIM
BY IAN ALEXANDER, LISA
ALEXANDER, KELLAN ALEXANDER,
NOEL ALEXANDER AND PARI
ALEXANDER; DECLARATION OF ROY
MILLER; DECLARATION OF IAN
ALEXANDER**

24 ☐ Affects PG&E Corporation
25 ☐ Affects Pacific Gas and Electric Company
☒ Affects both Debtors

26 * All papers shall be filed in the Lead Case,
27 No. 19-30088 (DM).

Date:
Time: 10:00 a.m. (Pacific Time)
Place: United States Bankruptcy Court
Courtroom 17, 16th Floor

Objection Deadline: June 6, 2024

1 TO THE HONORABLE DENNIS MONTALI, UNITED STATES BANKRUPTCH COURT
2 JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE, AND ALL INTERESTED
3 PARTIES:

4 Watts Guerra LLP, together with several other firms, represent thousands of victims of the
5 Fires started by Pacific Gas & Electric, Inc. (“PG&E”) in 2017 (generally referred to as the
6 “North Bay Fires”) and 2018 (“Camp Fire”) and 2019 (“Kincade Fire”).

7 Watts Guerra LLP respectfully files this motion on behalf of Ian Alexander, Lisa
8 Alexander, Kellan Alexander, Noel Alexander and Pari Alexander (collectively, “Movants”) to
9 deem timely late filing of proof of claim (“Motion”).

10 **I. SUMMARY OF ARGUMENT**

11 A proof of claim may be deemed timely upon a showing of excusable neglect and lack of
12 prejudice. In this case, due to a variety of stressors arising from the Camp Fire, Movants were
13 unable to timely file their proof of claim. Because there is no danger of prejudice to the Debtors
14 as Debtors’ estates are solvent, and all creditors stand to be paid, the Motion should be granted to
15 allow these survivors to have their claim deemed timely. This Court must determine whether to
16 grant the Motion to deem Movants’ proof of claim timely filed.

17 **II. FACTUAL BACKGROUND**

18 **A. Movants’ claims arise from the Tubbs Fire¹**

19 Creditors, Ian Alexander, Lisa Alexander, Kellan Alexander, Noel Alexander and Pari
20 Alexander, are survivors of the Tubbs Fire that occurred in 2017.

21 Mr. Alexander was a *pro se* claimant to the Fire Victim Trust (“FVT”). On/or about
22 December 2019, after reading and following the instructions on the Prime Clerk website, he filed a
23 proof of claim for himself and his family. On or about January 2020, he attempted to locate his
24 claim on the Prime Clerk website and could not, so in an abundance of caution, he re-filed the proof
25 of claim for his family. *See* Exhibit 3.

26 Mr. Alexander then proceeded to file his family’s Fire Victim Trust claim questionnaire.
27 The FVT assigned CQ ID 10004476 with individual claimant assignments each family member.

28 ¹ *See* Ex. 1, Declaration of Roy Miller.

1 See Exhibit 4. For the next two years, Mr. Alexander corresponded with the FVT about his claim.
2 See Declaration of Ian Alexander.

3 In August 2022, Mr. Alexander's claims were denied by the FVT, as his proof of claim was
4 deemed untimely. After the denial, Mr. Alexander hired undersigned counsel to represent his family
5 in damages resulting from the October 2017 Tubbs Wildfire.

6 On January 26, 2023, Mr. Alexander submitted the required Update Attorney
7 Representation Form in the FVT portal, at which time Watts Guerra LLP and Hansen&Miller
8 received access. No Determination of Untimely POC was posted to the FVT portal at that time.

9 Watts Guerra LLP and Hansen&Miller began working the claim for the Movants and
10 submitting supporting documentation to the FVT portal. On March 24, 2023, Watts Guerra LLP
11 submitted a CQ ID 10050590 to the FVT.

12 On December 20, 2023, the Determination of Untimely POC was posted on the FVT portal
13 – for the first time.

14 Movants now seek relief from this Court to deem their Proof of Claim timely filed, so
15 they're rightful claim for damages are justly evaluated and compensated by the FVT. Watts Guerra
16 now brings Motion to have the Subject Proof of Claim deemed timely. See Ex.5.

17 **B. General Procedural Background**

18 On January 29, 2019, PG&E Corporation and Pacific Gas and Electric Company ("Debtors"
19 or "PG&E") commenced with the Court voluntary cases ("Chapter 11 Cases") under chapter 11 of
20 the United States Code ("Bankruptcy Code"). PG&E's chapter 11 filings were necessitated by a
21 confluence of factors resulting from catastrophic fires that occurred in Northern California prior to
22 the Petition Date, and PG&E's potential liabilities arising therefrom.

23 Since, the Debtors continue to operate their businesses and manage their properties as
24 debtors in possession pursuant to 11 U.S.C. §§ 1107(a) & 1108, the Debtors' Chapter 11 Cases
25 are being jointly administered for procedural purposes only pursuant to Rule 1015(b) of the
26 Federal Rules of Bankruptcy Procedure ("FRBP").

27 **C. Plan, Disclosure Statement, and the Solicitation Procedures Motion**

28 On January 31, 2020, as Dk. No. 5590, the Debtors filed an Amended Chapter 11 Plan
Debtors' and Shareholder Proponents' Joint Chapter 11 Plan of Reorganization Dated January 31,

1 2020.

2 On February 7, 2020, as Dk. No. 5700, the Debtors filed a Disclosure Statement for the
3 Amended Plan.

4 On February 19, 2020, as Dk. No. 5835, the Debtors filed Motion for Entry of an Order (I)
5 Approving Form and Manner of Notice of Hearing on Proposed Disclosure Statement; (II)
6 Establishing and Approving Plan Solicitation and Voting Procedures; (III) Approving Forms of
7 Ballots, Solicitation Packages, and Related Notices; and (IV) Granting Related Relief (the
8 “Solicitation Procedures Motion”).

9 On March 16, 2020, as Dk. No. 6320, the Debtors filed the Amended Chapter 11 Plan
10 Debtors' and Shareholder Proponents' Joint Chapter 11 Plan of Reorganization Dated March 16,
2020.

11 On March 17, 2020, the Solicitations Procedures Motion was approved. Since then, the
12 Disclosure Statement and Plan have been circulated for votes.

13 **D. Extended Bar Date for Fire Victim Creditors**

14 The deadline for filing proofs of claim with respect to any prepetition claim including, but
15 not limited to, all claims of Fire Claimants, Wildfire Subrogation Claimants, Governmental Units
16 and Customers, and for the avoidance of doubt, including all secured claims and priority claims,
17 against either of the Debtors was October 21, 2019 at 5:00 p.m. (“General Bar Date”).

18 The deadline for filing claims was extended to December 31, 2019 (“Extended Bar Date”),
19 solely for the benefit of any non-governmental Fire Claimants who had not filed Proofs of Claim
20 by the General Bar Date.

21 **III. Legal Argument**

22 In a Chapter 11 case, the time to file a proof of claim may be extended under certain
23 circumstances. Fed. R. Bank. Pro. 3003(c)(3); Fed. R. Bank. Pro. 9006(b)(1). The bankruptcy
24 court has “broad equitable powers” in a Chapter 11 case with respect to the timing requirement
25 for proofs of claim. *Pioneer Inventory Services v. Brunswick Associates Limited Partnership*, 507
26 U.S. 380, 389 (1993). All in all, Rule 9006(b)(1) allows “late filings caused by inadvertence,
27 mistake, or carelessness, not just those caused by intervening circumstances beyond the party's
28 control.” *Id.*, at 381. Even a creditor that did in fact receive notice may file a proof of claim

1 notwithstanding the expiration of a claims bar date in a Chapter 11 case upon a showing of
2 “excusable neglect.” *Id.* At 394-95 (“Had respondents here been prevented from complying with
3 the bar date by an act of God or some other circumstance beyond their control, the Bankruptcy
4 Court plainly would have been permitted to find ‘excusable neglect’ [under FRBP 9006].”).

5 In considering whether a creditor’s failure was the product of “excusable neglect,” the court
6 should take “account of all relevant circumstances surrounding the party’s omission,” including
7 “the danger of prejudice to the debtor, the length of the delay and its potential impact on judicial
8 proceedings, the reason for the delay, including whether it was within the reasonable control of the
9 movant, and whether the movant acted in good faith.” *Id.* at 395; *see also Corning v. Corning (In*
10 *re Zilog, Inc.)*, 450 F.3d 996 (9th Cir. 2006) (noting *Pioneer*’s non-exhaustive list of relevant
11 factors). Again, a late-filed proof of claim is allowable where a creditor had actual notice of the
12 bankruptcy but, due to some external reason, failed to file a proof of claim or did not realize that
13 she had to, before the bar date. *See, e.g., ZiLOG, Inc. v. Corning (In re ZiLOG, Inc.)*, 450 F.3d 996,
14 1003-07 (9th Cir. 2006) (applying the *Pioneer* factors). All in all, Rule 9006(b)(1) allows “late
15 filings caused by inadvertence, mistake, or carelessness, not just those caused by intervening
16 circumstances beyond the party's control.” *Pioneer*, 507 U.S. at 381.

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19 Movants mistakenly believed they had filed their proof of claim prior to the bar date,
20 diligently attempted to confirm the timely filing, and dutifully re-filed their proof of claim - in the
21 event of a mistake. Because the FVT worked with Movants for two years, and Movants’ counsel
22 throughout 2023, the FVT fully appreciated the nature and extent of Movants’ claims. The FVT is
23 solvent and capable of satisfying Movants’ claims.

24
25 Because in this case there is no danger of prejudice to the Debtors, the first *Pioneer* factor
26 weighs overwhelmingly in Movant’s favor. Debtors’ estates are solvent, and all creditors stand to
27 be paid. *See, e.g., In re Best Payphones, Inc.*, 523 B.R. 54, 75-6 (Bankr. S.D.N.Y. 2015) and *In re*
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2 *Sheehan Mem'l Hosp.*, 507 B.R. 802, 803 (Bankr. W.D.N.Y. 2014) (where the chapter 11 estate is
3 solvent, "the proper remedy for a late filing is not the expungement of a claim, but its allowance
4 as a tardily filed claim only.). Secondly, immediately, upon receiving all the necessary
5 information the Subject Proof of Claim was filed. Thirdly, the delay in filing the Subject
6 Proof of Claim is reasonable considering the estrangement of Movants and the accompanying
7 stress of relocating after the emotional trauma they experienced surviving the Camp Fire.
8 Lastly, any prospect of prejudice beyond solvency is unlikely given (a) all distributions have not
9 been made; and (b) the value of Movants' claims relative to the value of Debtors' estates is low.
10 *See, e.g., In re Keene Corp.*, 188 B.R. 903, 910 (Bankr. S.D.N.Y. 1995) (size of the late claim in
11 relation to the estate is a consideration in determining prejudice). Finally, the FVT knew of
12 Movants' claim in January of 2020, worked with Movants for over two years, and worked with
13 undersigned counsel throughout 2023. Following an Order deeming Movants' Proof of Claim timely
14 filed, the FVT has all information to evaluate Movants' claim and issue a Determination in a timely
15 manner.

16 **IV. Conclusion**

17 For the reasons set forth above, Movants respectfully request that this Court enter an
18 order pursuant to Bankruptcy Rule 9006(b)(1) as follows:

- 19 1. Granting the Motion;
- 20 2. Finding that Subject Proof of Claim filed by Movants be allowed as having
21 been timely filed;
- 22 3. Granting such other or further relief as the Court deems just and proper.

23 Dated: May 16, 2024.

24 Respectfully submitted,

25 WATTS GUERRA LLP

26 By: /s/ Alicia O'Neill
27 Alicia O'Neill
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